



General Assembly

February Session, 2006

Substitute Bill No. 5055

* _____HB05055GAE____032406_____*

AN ACT CONCERNING MUNICIPAL AND DISTRICT ETHICS CODES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2006*) As used in sections 1 to 9,
2 inclusive, of this act:

3 (1) "Business" means any entity through which business for profit or
4 not-for-profit is conducted, including a corporation, partnership,
5 proprietorship, firm, enterprise, franchise, association, organization or
6 self-employed individual.

7 (2) "Business with which he or she is associated" means a business of
8 which a public official or public employee or a member of his or her
9 immediate family is a director, officer, owner, employee, compensated
10 agent or holder of stock that constitutes five per cent or more of the
11 total outstanding stock of any class.

12 (3) "Confidential information" means information, whether
13 transmitted orally or in writing, which is obtained by reason of the
14 public position or office held and is of such nature that it is not, at the
15 time of transmission, a matter of public record or public knowledge.

16 (4) "District" means a district established pursuant to section 7-324
17 of the general statutes.

18 (5) "Financial interest" means any interest with a monetary value of
19 one hundred dollars or more or which generates a financial gain or
20 loss of one hundred dollars or more in a calendar year.

21 (6) "Gift" means anything of value, including entertainment, food,
22 beverage, travel or lodging, given or paid to a public official or public
23 employee, to the extent that consideration of equal or greater value is
24 not received. A gift does not include:

25 (A) A political contribution otherwise reported as required by law
26 or a donation or payment as described in subdivision (9) or (11) of
27 subsection (b) of section 9-333b of the general statutes, as amended;

28 (B) Services provided by persons volunteering their time for a
29 political campaign;

30 (C) A commercially reasonable loan made on terms not more
31 favorable than loans made in the ordinary course of business;

32 (D) A gift received from (i) an individual's spouse, fiance or fiancée,
33 (ii) the parent, brother or sister of such spouse or such individual, or
34 (iii) the child of such individual or the spouse of such child;

35 (E) Goods or services that are provided to the municipality or
36 district and facilitate governmental action or functions;

37 (F) A certificate, plaque or other ceremonial award costing less than
38 one hundred dollars;

39 (G) A rebate or discount on the price of anything of value given in
40 the ordinary course of business without regard to the recipient's status;

41 (H) Printed or recorded informational material germane to
42 governmental action or functions;

43 (I) Items of nominal value, not to exceed ten dollars, containing or
44 displaying promotional material;

45 (J) An honorary degree bestowed upon a public official or public
46 employee by a public or private university or college;

47 (K) A meal provided at an event or the registration or entrance fee
48 to attend such an event, in which the public employee or public official
49 participates in said person's official capacity;

50 (L) A meal provided in the home by an individual who resides in
51 the municipality or district in which the employee or official serves; or

52 (M) In-kind gifts of nominal value not exceeding twenty-five dollars
53 tendered on gift-giving occasions generally recognized by the public,
54 including Christmas, Hanukkah, birthdays, the birth or adoption of a
55 child, weddings, confirmations or bar or bat mitzvahs, provided the
56 total value of such gifts in any calendar year do not exceed fifty
57 dollars.

58 (7) "Immediate family" means any spouse, child or dependent
59 relative who resides in the individual's household.

60 (8) "Individual" means a natural person.

61 (9) "Municipality" means a town, city or borough.

62 (10) "Paid consultant" means a person, firm or corporation hired by
63 a municipality or district to provide services to the municipality or
64 district for a fee.

65 (11) "Person" means an individual, sole proprietorship, trust,
66 corporation, union, association, firm, partnership, committee, club or
67 other organization or group of persons.

68 (12) "Public employee" means a person employed full or part time
69 by a municipality or a district. "Public employee" does not include a
70 public official.

71 (13) "Public official" means (A) an elected or appointed official
72 employed full or part time by a municipality or district, on either a

73 paid or unpaid basis, including a district officer elected pursuant to
74 section 7-327 of the general statutes, or (B) a candidate for a municipal
75 or district office.

76 Sec. 2. (NEW) (*Effective July 1, 2006*) (a) Notwithstanding the
77 provisions of any special act, municipal charter or ordinance, not later
78 than July 1, 2007, each municipality and district shall adopt a code of
79 ethical conduct for its public officials, public employees and paid
80 consultants. Each such code of ethical conduct shall include the
81 provisions set forth in sections 3 to 5, inclusive, of this act or stricter
82 ethical provisions for such public officials, public employees and paid
83 consultants.

84 (b) Any municipality or district that adopts a code of ethical conduct
85 before July 1, 2006, shall not be required to adopt a new code of ethical
86 conduct under subsection (a) of this section. If any such existing code
87 of ethical conduct does not include the provisions set forth in sections
88 3 to 5, inclusive, of this act or stricter ethical provisions for the
89 municipality's or district's public official, public employees and paid
90 consultants, the municipality or district shall, not later than July 1,
91 2007, amend its code of ethical conduct to include the provisions set
92 forth in said sections 3 to 5, inclusive, or stricter ethical provisions for
93 such persons.

94 Sec. 3. (NEW) (*Effective July 1, 2006*) Each code of ethical conduct
95 adopted by a municipality or district under subsection (a) of section 2
96 of this act shall include the following or stricter provisions for the
97 municipality's or district's public officials and public employees:

98 (1) No public employee or public official shall engage in or
99 participate in any business or transaction, including outside
100 employment with a private business, or have an interest, direct or
101 indirect, that is in conflict with the proper discharge of the employee's
102 or official's responsibilities in the public interest or that would impair
103 the employee's or official's independent judgment or action in the
104 performance of the employee's or official's responsibilities.

105 (2) (A) No public employee or public official shall solicit or accept
106 any gift from any person that, to the employee's or official's
107 knowledge, is interested in any pending matter within such
108 individual's official responsibility. As used in this subdivision, "official
109 responsibility" means the direct administrative or operating authority,
110 whether intermediate or final and whether exercisable personally or
111 through subordinates, to approve, disapprove or otherwise direct
112 governmental action.

113 (B) If a prohibited gift is offered, the employee or official shall refuse
114 it, return it, pay the donor the full value of the gift or donate it to a
115 nonprofit organization, provided the employee or official does not take
116 the corresponding tax deduction or credit. Alternatively, the gift may
117 be deemed to be a gift to the municipality or district, provided it
118 remains in the municipality's or district's possession permanently.

119 (3) (A) A public employee or public official shall refrain from voting
120 upon or otherwise participating in any matter on behalf of the
121 municipality or district for which the employee or official serves, if the
122 employee or official, a business with which he or she is associated, or a
123 member of his or her immediate family, has a financial or personal
124 interest in the matter, including, but not limited to, the sale of real
125 estate, material, supplies or services to the municipality or district. As
126 used in this subdivision, "personal interest" means an interest in any
127 action taken by the municipality or district in which an individual will
128 derive a nonfinancial benefit or detriment but which will result in the
129 expenditure of municipal funds.

130 (B) Notwithstanding the prohibition in subparagraph (A) of this
131 subdivision and the provisions of subsection (b) of section 7-148h of
132 the general statutes, a public employee or public official may vote or
133 otherwise participate in a matter that involves a determination of
134 general policy if the employee's or official's interest in the matter is de
135 minimus in nature or shared with a substantial segment of the
136 population of the municipality or district in which the employee or
137 official serves.

138 (4) In addition to the restrictions in subdivision (3) of this section, a
139 public employee who serves on any governmental body of a
140 municipality or district shall not vote or participate on any matter
141 involving, for the department or program employing such public
142 employee, (A) collective bargaining, (B) compensation or benefits, (C)
143 personnel policies and procedures, (D) the budget, other appropriation
144 or capital funding, or (E) employment, compensation, benefits or
145 performance of personnel, unless such public employee is permitted to
146 vote or participate pursuant to the provisions of a municipal charter,
147 home rule ordinance or ordinance.

148 (5) (A) No public employee or public official shall appear on behalf
149 of private interests before any board, agency or committee of the
150 municipality or district for which the employee or official serves.

151 (B) No public employee or public official shall represent private
152 interests against the interest of the municipality or district for which
153 the employee or official serves, in any litigation to which such
154 municipality or district is a party.

155 (C) The provisions of subparagraphs (A) and (B) of this subdivision
156 shall not apply to a public official who receives no compensation for
157 service to the municipality or district other than per diem payments
158 and reimbursement of expenses.

159 (6) Nothing in this section shall prohibit or restrict a public
160 employee or public official from (A) appearing before any board or
161 commission of the municipality or district for which the employee or
162 official serves, on the employee's or official's own behalf, or (B) being a
163 party in any action, proceeding or litigation (i) for which the
164 municipality or district is a party, and (ii) that is brought by or against
165 the public employee or public official.

166 (7) No public employee or public official shall disclose or use
167 confidential information concerning the affairs of the municipality or
168 district for which the employee or official serves, for the financial

169 interests of the employee or official or others.

170 (8) No public employee or public official shall request or permit the
171 use of a vehicle, equipment, facility, material or property, which is
172 owned by the municipality or district for which the employee or
173 official serves, for personal convenience or profit, except when
174 available to the public generally or provided as municipal or district
175 policy for the use of such public employee or public official in the
176 conduct of official business, in which case the public employee or
177 public official may use such vehicle, equipment, facility, material or
178 equipment for de minimus personal convenience.

179 (9) No public employee or public official, or a business with which
180 he or she is associated, or a member of his or her immediate family
181 shall enter into a contract with the municipality or district for which
182 the employee or official serves, which has a value of one hundred
183 thousand dollars or more, unless the contract is awarded through a
184 process of public notice and competitive bidding.

185 (10) No public employee or public official may use the employee's
186 or official's position or office with the municipality or district for which
187 the employee or official serves, for the financial benefit of the
188 employee or official, a business with which he or she is associated or a
189 member of his or her immediate family. The provisions of this
190 subdivision shall not prohibit a public employee or public official from
191 receiving compensation for writing, on the employee's or official's own
192 time, a book or article relating to the employee's or official's service for
193 such municipality or district.

194 (11) No public employee or public official shall accept a fee or
195 honorarium for an article, appearance or speech, or for participation at
196 an event, in the employee's or official's official capacity, provided a
197 public official or public employee may receive payment or
198 reimbursement for necessary expenses for any such activity in such
199 official's or employee's official capacity.

200 (12) No public employee or public official, or member of such
201 individual's immediate family or business with which he or she is
202 associated, shall solicit or accept anything of value, including, but not
203 limited to, a gift, loan, political contribution, reward or promise of
204 future employment based on any understanding that the vote, official
205 action or judgment of the public employee or public official would be
206 or had been influenced thereby.

207 (13) No public employee, public official or candidate for elected
208 office of a municipality or district shall (A) engage in political activity
209 while on municipal or district duty or within any period of time
210 during which such person is normally expected to perform services for
211 which such person receives compensation from the municipality or
212 district, or (B) utilize municipal or district funds, supplies, vehicles or
213 facilities for the purpose of any such political activity.

214 Sec. 4. (NEW) (*Effective July 1, 2006*) Each code of ethical conduct
215 adopted by a municipality or district under subsection (a) of section 2
216 of this act shall include the following or stricter provisions for the
217 municipality's or district's paid consultants:

218 (1) No paid consultant of a municipality or district shall represent a
219 private interest in any action or proceeding against the interest of the
220 municipality or district that is in conflict with the performance of said
221 person's duties as a consultant.

222 (2) No paid consultant may represent anyone other than the
223 municipality or district concerning any matter in which the consultant
224 participated personally and substantially as a consultant to the
225 municipality or district.

226 (3) No paid consultant shall (A) disclose confidential information
227 learned while performing the consultant's duties for the municipality
228 or district, or (B) use such information for the financial interests of the
229 consultant or others.

230 Sec. 5. (NEW) (*Effective July 1, 2006*) Each code of ethical conduct

231 adopted by a municipality or district under subsection (a) of section 2
232 of this act shall include the following or stricter provisions for the
233 municipality's or district's former public officials and public
234 employees:

235 (1) No former public employee or public official shall appear for
236 compensation before any municipal or district board or agency in
237 which the employee or official was formerly employed at any time
238 within a period of one year after termination of the employee's or
239 official's service with the municipality or district.

240 (2) No former public employee or public official shall represent
241 anyone other than the municipality or district concerning any
242 particular matter in which the employee or official participated
243 personally and substantially while in municipal or district service.

244 (3) No former public employee or public official shall disclose or use
245 confidential information acquired in the course of and by reason of the
246 employee's or official's official duties, for financial gain for himself or
247 herself or others.

248 (4) No former public employee or public official who participated
249 substantially in the negotiation or award of a municipal or district
250 contract obliging the municipality or district to pay an amount of one
251 hundred thousand dollars or more, or who supervised the negotiation
252 or award of such a contract, shall accept employment with a party to
253 the contract other than the municipality or district for a period of one
254 year after such contract is signed.

255 Sec. 6. (NEW) (*Effective July 1, 2006*) (a) Not later than July 1, 2007,
256 each municipality and district that has not established an agency to
257 investigate allegations of unethical conduct, corrupting influence or
258 illegal activities against public officials, public employees and paid
259 consultants of the municipality or district, pursuant to section 7-148h
260 of the general statutes, shall (1) establish a procedure for investigating
261 and deliberating on such allegations, and (2) designate or establish an

262 agency to conduct such investigations and deliberations. Two or more
263 municipalities or districts may jointly establish such procedure.

264 (b) The procedure established under subsection (a) of this section
265 shall provide that if any allegation of unethical conduct, corrupting
266 influence or illegal activity is made with the knowledge that it is
267 without foundation in fact, the respondent shall have a cause of action
268 against the complainant for double the amount of damage caused by
269 the allegation. If the respondent prevails in such action, the court may
270 award the respondent the costs of such action and reasonable
271 attorneys' fees.

272 Sec. 7. (NEW) (*Effective July 1, 2006*) (a) An agency established under
273 section 7-148h of the general statutes or an agency designated or
274 established under section 6 of this act may, upon determining that
275 there has been a violation of any provision of the code of ethical
276 conduct for the municipality or district served by the agency, censure
277 the violator or order the violator to do any or all of the following: (1)
278 Cease and desist the violation of such provision; (2) file any report,
279 statement or other information as required by such provision; and (3)
280 pay a civil penalty to the municipality or district for such violation in
281 accordance with the penalty structure prescribed by the Office of State
282 Ethics pursuant to subsection (b) of this section.

283 (b) The Office of State Ethics shall adopt regulations, in accordance
284 with the provisions of chapter 54 of the general statutes, that establish
285 a penalty structure to be imposed by an agency upon a finding of a
286 violation, as described in subsection (a) of this section.

287 (c) A person who is aggrieved by a final decision of any such agency
288 may appeal to the Office of State Ethics. The Office of State Ethics shall
289 adopt regulations, in accordance with the provisions of chapter 54 of
290 the general statutes, setting forth procedures for such appeals.

291 (d) In deciding any such appeal, the Office of State Ethics shall not
292 substitute its judgment for that of the agency as to the weight of the

293 evidence on questions of fact and shall limit its review to the record
294 that was before the agency described in subsection (a) of this section.
295 The Office of State Ethics shall affirm the decision of the agency unless
296 the office finds that substantial rights of the person appealing have
297 been prejudiced because the agency findings, inferences, conclusions,
298 or decisions are: (1) In violation of constitutional or statutory
299 provisions or the provisions of a code of ethical conduct adopted
300 under section 2 of this act or subdivision (10) of subsection (c) of
301 section 7-148 of the general statutes; (2) in excess of the statutory
302 authority of the agency; (3) made upon unlawful procedure; (4)
303 affected by other error of law; (5) clearly erroneous in view of the
304 reliable, probative, and substantial evidence on the whole record; or (6)
305 arbitrary or capricious or characterized by abuse of discretion or
306 clearly unwarranted exercise of discretion. If the Office of State Ethics
307 finds such prejudice, it shall sustain the appeal and, if appropriate,
308 may render a judgment modifying the agency decision or remand the
309 matter for further proceedings. The Office of State Ethics may award
310 reasonable attorney's fees to the respondent in any such appeal upon a
311 finding by the Office of State Ethics that such appeal was frivolous.

312 (e) Any person aggrieved by a final decision of the Office of State
313 Ethics under subsection (c) of this section may appeal such decision in
314 accordance with the provisions of section 4-183 of the general statutes.

315 Sec. 8. (*Effective July 1, 2006*) (a) Not later than July 15, 2007, each
316 municipality and district shall submit a report to the Office of State
317 Ethics stating whether the municipality or district has complied with
318 each of the applicable requirements of sections 2 to 6, inclusive, of this
319 act.

320 (b) Not later than September 1, 2007, the Office of State Ethics shall
321 submit a report to the joint standing committee of the General
322 Assembly having cognizance of matters relating to ethics. Said report
323 shall (1) indicate the status of the compliance of each municipality and
324 district with the applicable requirements of sections 2 to 6, inclusive, of
325 this act, and (2) if any municipality or district has not complied with

326 any such requirement, make recommendations for securing such
 327 compliance, including, but not limited to, proposed legislation.

328 Sec. 9. (NEW) (*Effective July 1, 2006*) (a) The legislative body of each
 329 municipality or district shall have the authority to determine if a code
 330 of ethical conduct adopted by the municipality or district complies
 331 with the provisions of sections 2 to 5, inclusive, of this act.

332 (b) In the case of a municipality or district in which the legislative
 333 body is a town meeting, the board of selectmen shall perform all of the
 334 duties and have all of the authority and responsibilities required of, or
 335 granted to, such legislative body under sections 2 to 8, inclusive, of this
 336 act for the purposes of sections 2 to 8, inclusive, of this act.

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|---|---------------------|-------------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>July 1, 2006</i> | New section |
| Sec. 2 | <i>July 1, 2006</i> | New section |
| Sec. 3 | <i>July 1, 2006</i> | New section |
| Sec. 4 | <i>July 1, 2006</i> | New section |
| Sec. 5 | <i>July 1, 2006</i> | New section |
| Sec. 6 | <i>July 1, 2006</i> | New section |
| Sec. 7 | <i>July 1, 2006</i> | New section |
| Sec. 8 | <i>July 1, 2006</i> | New section |
| Sec. 9 | <i>July 1, 2006</i> | New section |

GAE *Joint Favorable Subst.*